



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

**999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466**

May 25, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-2260-0001-7778-5113
RETURN RECEIPT REQUESTED

Fremont County Commissioners
c/o Doug Thompson, Chair
450 North Second
Lander, WY 82520

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Bitterroot Ranch
PWS ID# WY5601511

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Bitterroot Ranch LLC, Mel Fox and Bayard Fox, Dubois, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.23(d), 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report SDWA violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County



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Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

May 25, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-2260-0001-7777-9198
RETURN RECEIPT REQUESTED

Bitterroot Ranch LLC
Addison E. Winter, Registered Agent
205 SO. Broadway
Riverton, WY 82501

Ms. Mel Fox and Mr. Bayard Fox, Operators
1480 East Fork Road
Dubois, Wyoming 82513

Re: Administrative Order
Docket No. **SDWA-08-2004-0027**
PWS ID# WY5601511

Dear Messrs. Addison Winter and Bayard Fox, and Ms. Mel Fox:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Bitterroot Ranch Water System (System) is a public water system as defined by the SDWA and that the owner/operators of the system have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for nitrate; failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the



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Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Michelle Jalazo at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
Public Notice template
SBREFA



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5.

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



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IN THE MATTER OF

Ms. Mel Fox & Mr. Bayard Fox, Operators)
Bitterroot Ranch LLC, Owner)
Dubois, Wyoming)
PWS ID# WY5601511)

Respondents

Proceedings under Section 1414(g)
of the Safe Drinking Water Act,
42 U.S.C. § 300g-3(g)

) ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2004-0027**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Bitterroot Ranch LLC ("Respondent") is a limited liability company under the laws of the state of Wyoming as of



December 1995 and therefore a "person" within the meaning of 40 C.F.R. § 141.2. Ms. Mel Fox and Mr. Bayard Fox ("Respondents") are individuals and therefore "person(s)" within the meaning of 40 C.F.R. § 141.2.

2. Respondents own and/or operate a system, the Bitterroot Ranch Water System (the "System"), located in Fremont County, Wyoming for the provision to the public of piped water for human consumption.
3. The Bitterroot Ranch Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.



5. According to an August 1, 2002 sanitary survey by an agent for EPA, Respondents operate a system that is supplied solely by a ground water source consisting of five wells. The system serves approximately 20 transient persons and 20 staff per year from early May through late September, and 2 year-round residents, through 16 service connections.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter at sites which are representative of water throughout the distribution system to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. On October 2, 2002, EPA sent a letter to Respondents indicating that Respondents were required to collect five samples per quarter for total coliform bacteria, thus collecting one sample from each of the five separate distribution systems.
3. Respondents failed to monitor the System's water for



contamination by total coliform bacteria in each distribution system for a total of five samples each quarter during the 2nd (April-June) and 3rd (July-September) quarters in 2003, in violation of 40 C.F.R. § 141.21(a).

II.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondents failed to monitor for nitrate in 2003, in violation of 40 C.F.R. § 141.23(d).

III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondents have not provided public notice of the



noncompliance for failure to monitor total coliform bacteria detailed in the preceding Section I, and failure to monitor nitrate in 2003 detailed in the preceding Section II, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.
2. Respondents failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (2) .

V.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondents failed to report to EPA instances of noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.31(b) .

ORDER



Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this order, Respondents shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Within 30 days of the season opening, and annually thereafter, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
3. No later than 30 days from the first day of your operational season in 2004, Respondents must provide public notice of the violations specified under the Findings of Violation in Section I and II in this Order to



return to compliance with

40 C.F.R. § 141.201. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days



of completion of the public notice, as required by 40

C.F.R.

§ 141.31(d).

4. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
5. Except where a different reporting period is specified in paragraph 4 above, upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
6. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or



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modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondents to an administrative civil penalty of up to \$27,500 under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondents to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).



4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 25TH day of May, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MAY 25, 2004.



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